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POLICY CONTRACTS IN LIFE INSURANCE

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I.

Correlations of Policy Contracts.

Life insurance practically had its origin in a contract between two or more parties that was in the nature of a wager. The payor of the premium would win if the insured died within a given period, and the insurer would win if the insured survived such a period.

The first record we have of such a life insurance contract shows that it was made June 18, 1583, in favor of Richard Martin, citizen and alderman of London. The subject insured was one William Gybbons, and the contract practically amounted to a wager between Richard Martin and thirteen merchants of the city of London. Martin paid the thirteen merchants about £30. If Gybbons died within twelve months, then the thirteen merchants agreed to pay about £400. While this was a wager transaction, and would now be void in law, it was, in a manner, the beginning of life insurance contracts.

A policy on the life of Nicholas Bourne, dated November 25, 1721, issued by the London Assurance Corporation at the request and expense of Thomas Baldwin, is the second authentic record we have of an early life insurance contract. An interesting feature of this contract is that it would meet the necessities of the Second Adventists, whose considerations of life insurance are disturbed by the prospect of being translated and thus leaving behind them no evidence of death. The policy provided that "in case he, the said Nicholas Bourne, shall in or during the said time, and before the full End and Expiration thereof, happen to dye, or de cease out of this world by any Ways or Means whatsoever, That then the

above said Governor and Company will well and truly satisfy, content, and pay unto the said Thomas Baldwin, his Executors, Administrators or Assigns, the Sum or Sums of Money by him Assured, and here underwritten, without any Allowance, Deduction, or Abatement whatsoever." The only condition of avoiding the contract was going to sea or into the wars without written consent.

Another old contract of which we have a record is on the life of the Right Rev. William Carmichael, Lord Bishop of Clonfert, dated June 27, 1754. The insurance was effected by and for the benefit of George Cockburne at the rate of \$5 premium for each £100 insured. Suicide, or death by the hands of justice, or going outside of his Britannic Majesty's dominions of Great Britain and Ireland without first obtaining license in writing voided the contract.

A contract of life insurance must now be supported by a legal insurable interest. That is to say, when the insurance is effected by any person other than the insured the beneficiary must have an interest in the continuance of the life of the insured and not merely a monetary interest in his death.

While it is not my province to discuss the actuarial and scientific questions involved, it is proper to say that the discovery of the law of mortality susceptible of mathematical calculation made it possible to supplant crude guesses at the chances of life and death by tables constructed from mortality observations.

The contracting parties under the policy are usually designated in this country as the insured, the subject upon whose life the policy is written; the insurer, the one who assumes the obligation to pay the insurance; and the beneficiary, the one to whom the insurance is paid in the event of death. There are, therefore, usually three parties to a policy contract.

Individuals under modern methods do not act as insurers. The laws of the several states have provided for the incorporation of insurance companies which have perpetual succession. Individuals die, but properly managed corporations are supposed to live always. The powers of a life insurance company under the statute usually consist of effecting insurance upon the lives of individuals, every insurance appertaining thereto or connected therewith, and the granting and purchasing of annuities. The companies are authorized to make by-laws for their government not in conflict with the laws and constitution of the state in which they are incorporated,

or of the United States. Full liberty and freedom is, therefore, vouchsafed to the life insurance company in the making of contracts with a single requirement applicable only to companies known as old line or legal reserve companies. This requirement amounts to a standard of safety adopted by the state, which provides that whatever the policy contract may be the insurance company must always have in its coffers money or securities equal to the difference between the present worth of what it promises to pay, and the present worth of the net premiums the insured promises to pay, which difference is known as the reserve. Beyond this the state wisely does not undertake to interfere with or handicap the companies. While this latitude or license has probably in a degree been abused, it has given the public a great variety of policy contracts from which to select; and as the insuring public is becoming better informed and able to discriminate between the sound and unsound, such latitude or license is becoming less objectionable. Indeed, by reason of the ever changing conditions it is infinitely to be preferred to any attempt at circumscribing legal limitations to policy contracts.

Origin and Definition.—The word policy means in general a course or plan of action or administration. During the Middle Ages it was used to designate memoranda. In England it has been applied to “a warrant or ticket for money in the public funds.” In the United States it is applied to a gambling game. Among these varied definitions and uses has arisen its universal employment to designate comprehensively a written instrument embodying a contract of insurance involving, as it does, contingencies and probabilities. In life insurance a policy contract is, therefore, one involving the contingency of death, in which the minds of the parties thereto have met and agreed upon the terms and conditions of the underwriting.

Significance and Importance.—The taking out of a policy of life insurance signifies a sense of responsibility, frugality and thrift on the part of its owner. Under existing social and economic conditions the life insurance contract has become a necessity. The man who assumes the responsibility of a family and of engaging in business needs protection, in the event of his early death, for both. The insured or owner of the contract often derives substantial benefit from the self-denial and formation of the frugal habits acquired by the preparation to meet the periodical payment of premiums. He

is also benefited by the consciousness that he is creating an estate to benefit his dependents, which, in the event of his death, becomes immediately convertible into cash without the intervention of administrator, executor or attorney. It is generally conceded by the trust officers of our great trust companies that there are no securities left by decedents of as great general value, because of not being affected by market, etc., as are policies of life insurance. It is only in cases of gross fraud or where the rights of beneficiaries are disputed that any contest is made by the companies. For example: according to the sworn returns of 1902 and 1903 the total existing contested claims, representing an accumulation of years, amounted to only \$668,200, while the claims paid during the same years by the legal reserve companies represented \$367,035,413. Thus the accumulated contests represented only one-fifth of 1 per cent. of the amount of claims paid in two years; or for every \$1,000 paid, only two dollars were contested, and it is safe to say that currently not more than one dollar out of every \$1,000 paid is contested.

For the beneficiaries of such contracts it signifies the means of support after the decease of the breadwinners; it means escape from the pittances or charities of the world.

To the state life insurance signifies a much reduced poor rate for the maintenance of almshouses and eleemosynary institutions.

Magnitude of Interests Involved.—At the beginning of the nineteenth century, according to the best authorities, there were not exceeding one hundred life insurance policies in force in the United States. December 31, 1903, excluding beneficial societies, there were 19,405,107 policies reported as outstanding and in force. These were divided as follows: 4,684,578 of the ordinary legal reserve type, representing \$9,473,427,277 insurance, with a premium income in the year 1903 of \$349,480,332. There were payments to policyholders in the year 1903 of \$194,110,368; assets amounted to \$2,055,555,548, and liabilities to \$1,794,239,797. The industrial, fraternal and assessment types of policies, at the same time, December 31, 1903, numbered 14,720,529, representing \$3,019,963,655 insurance. The premium income in 1903, under these types of policies, amounted to \$105,138,307, and payments to policyholders to \$36,311,568. Assets aggregated \$221,891,857, and liabilities \$185,698,422. Hence the total sum insured under the four types of policies represents \$12,493,390,932, with accumulated assets of \$2,277,447,405.

The magnitude of the interests involved is so great as to be practically incomprehensible. In order to give an indication of their significance it is necessary to make some comparisons. The combined capital of all the national banks in the United States amounts to \$688,817,833; the deposits in all the savings banks of the United States aggregate \$2,935,204,845, by 7,035,228 depositors; the capital in all the manufacturing industries in the United States amounts to \$11,797,783,800, with 5,500,000 wage earners in the factories; the total railroad capital in the United States amounts to \$12,599,990,258, with 1,312,537 railway employees.

It will thus be seen that about one-fourth of the population is directly and about three-fourths indirectly interested in the subject of life insurance, and that the underwriting is about equal to the entire railway capital of the United States, and exceeds the capital of the manufacturing industries. The time has come, because of the magnitude of the interests involved, for a better understanding on the part of the public of policy contracts in life insurance.

Motives in Framing Contracts.—In order to get at the motives we will take up the considerations involved in the framing of a policy contract. It is, no doubt, true that policies have been framed with temporary success, having quick returns to the managers as the principal consideration; schemes could be cited in illustration of this statement. I shall, however, not undertake to cope with or discuss dishonest schemes, but shall address myself to the difficulties involved under honest and legitimate projects.

The consideration of first importance is so to frame the contracts as to perpetuate the existence of the corporation. To this end due consideration must be given to equity and justice, and to protection against dishonesty and fraud.

A policy may be loaded down with unnecessary restrictions. In the earlier days of life insurance, when observations had not been made of the various supposedly hazardous conditions, it was attempted to avoid them by policy restrictions. Many of these have been found to be unnecessary. Some of them are needed, and in a modified form should be retained in the interest of a sound, wholesome public policy and of equity to all policyholders.

While the motives involved in business getting cannot wholly be ignored, they must be subordinated to the rules of good business, sound public policy, equity and justice. It will not do for those

who have the framing of a policy contract to "play to the galleries" by a show of liberality, and thus secure public applause at the expense of policyholders.

Inception and Basis.—The beginning of a policy contract is a proposal in the form of an application for life insurance. In such application the applicant is required to make a detailed statement of his personal and family history, and such statements are usually made the basis of the contract. If the insured makes material misstatements, he is very much in the same moral position as anyone who obtains a thing of value under false pretenses. Banks, business and manufacturing concerns and individuals alike are protected under the laws against that class of people who do not hesitate to indulge in false pretenses. Notwithstanding these general facts, in some states life insurance companies have practically no protection. An applicant in such states may, with malice aforethought, misrepresent a material fact, and because of a prejudiced and pernicious public sentiment, which has invaded the courts of justice, the insurance management will sometimes pay rather than take the chances of greater loss in contesting a claim believed to be fraudulent. At best the binding obligations are all on the company, and both the insurance departments and the courts stand ready to enforce them, while the insured may at will discontinue the contract.

The public sentiment of which I have spoken largely ignores the fact that insurance is effected by the money of the policyholders of the company; that, literally, the policyholders are the company, and the officers are merely the managers. It is in part due to a condition which obtained after the Civil War in the seventies, when many companies were organized by men who knew absolutely nothing of the science of underwriting, and whose numberless blunders forced them to the last expedient of trying to perpetuate the existence of their companies by evading the paying of claims. While these companies ceased to exist many years ago, and while, if anything, the companies at present err on the side of liberality and promptness, the sentiment referred to remains in a modified form.

The application should and usually does contain a warranty clause in which the applicant warrants the truth of his statements that form the basis of the contract. If any material statements therein are found to be untrue, then the contract, according to its terms, may be voidable or become *ipso facto* null and void, and all

payments, except as expressly provided therein, are forfeited to the company. The rule, however, is to make the policies incontestable, except for the non-payment of premiums, after from one to two years following the date of issuance. Under the head of policy restrictions I discuss in some detail the incontestable clause.

Execution and When Operative.—Before execution of a policy contract the medical and inspection departments of the company carefully investigate the statements made by the applicant. They determine whether the applicant is insurable, and if so under what conditions. The applicant's financial ability to pay the premiums is also considered. Upon proper certification the executive department executes the contracts. The policy, however, as a rule, does not become binding or operative until delivery to the applicant and acceptance by him during his life time and good health, and the actual payment of the required premium.

Title to Policy.—The title to the policy may vest in the insured or in the beneficiary, depending upon the terms and conditions of the contract. If the insured under the terms of the contract has the right to change the beneficiary, then the latter has a contingent interest only, which does not become vested until after the death of the insured. Hence, under such a contract the title vests in the insured because he can, at any time, substitute his own estate or another beneficiary for the one originally named. If, however, under the terms of the contract the insured cannot change the beneficiary, then the title to the policy vests in the latter and can only be transferred to another by assignment.

Under the laws of most of the states a policy of life insurance, made payable to wife and children, is not liable for the debts of the insured, and hence, though the insured may be insolvent at the time of death, the creditors cannot get any part of the insurance money unless it can be shown that the policy was contracted for after insolvency and that the contract was made to avoid the payment of debts and to defraud creditors.

Consummation.—A life policy is not consummated or completed until it either expires by limitation or by maturity at the end of a stated period, or by the death of the insured. In the last event proof of death and of claim, as required by the contract, must be made to the company. While many policies provide for the payment of the money within a limit of thirty or sixty days, it has

become the custom of practically all the companies to pay the insurance money as soon as satisfactory proof of loss and claim has been made.

Legal Construction.—It is an established principle of the law courts to construe contracts against the framers or makers, on the ground that they are familiar with the technicalities of the law, and are presumed to frame the contracts in their own interest.

In construing contracts, in case of apparent conflict between written and printed clauses, preference is always given to the written clauses.

Notwithstanding the disposition of juries to favor individual claimants against corporations, and the disposition of the courts to construe the contract against the makers, it is a fact worthy of note that more than 75 per cent. of the litigated cases are won by the companies. This is due to the further fact that the companies will only resort to a contest in most flagrant, fraudulent cases.

II.

The Relation of Method to Life Contracts.

Variety of Life Contracts Due to Method.—There are four methods legally recognized and mentioned under this section, each of which has its distinctive features. The distinctions between the methods are legal, mathematical, practical and, in part, due to prejudice and custom. Because of the distinctions mentioned, the form of contract adapted to one method would not be suited to another method. This has given rise to a much larger variety of policy contracts in life insurance than we should have if there were but one method. While the system of life insurance may be said to be one, the methods are many.

Ordinary Legal Reserve Method.—This comprehends the classification of companies which are by law required to maintain a reserve at all times equal to the future deficiency in the premiums, so that the fulfilment of the policy obligations is guaranteed. There are probably as many as one hundred and fifty different varieties of policies issued by companies of this classification. It would be impracticable to attempt to enumerate them all, but I will mention the principal policies:

1. The Ordinary or Whole Life Participating Policy.—Premiums continuous during the life of the insured; dividends applied to reducing premiums or increasing the insurance; insurance payable at death only.

2. Limited Payment Participating Policy.—Premiums limited to a term of years; dividends as in (1), or payable in cash at the end of the term; insurance payable at death only.

3. Endowment Participating Policy.—Premiums payable during the specified term; dividends as in (2); insurance is payable at the end of years specified or at death if prior.

4. Non-Participating Policy.—All of the several forms mentioned are issued at a low rate of premiums in lieu of dividends.

In addition to the several forms of policies referred to there may be mentioned joint life or partnership, renewable term, term, instalment, single premium or paid-up, tontine, semi-tontine and a great variety of deferred dividend policies variously designated as accumulation, allotment, survivorship dividend, tontine dividend, etc.

Industrial Legal Reserve Method.—The variety is practically limited to the standard life and limited payment policies at premium rates considerably in excess of those charged by the ordinary legal reserve companies. This excess is due to the fact that the companies issuing industrial policies collect the premiums weekly—sometimes monthly—by collectors who go from house to house. By reason of the large premium charged policies of the industrial variety contain but few restrictions.

Fraternal or Lodge Method.—These contracts are in the form of certificates of membership, and usually provide for the suspension of a lodge in case payment is not made by the subordinate branches to the supreme body. Although the individual member may pay his dues and assessments promptly, if the lodge to which he belongs fails to pay he must suffer suspension. The rights of the individuals are subordinated to the conduct and will of the majority.

The contracts usually specify a maximum benefit, and are not in a legal sense guaranteed beyond the proceeds of the assessments collected from the lodges to pay the losses. The variety is usually limited to certificates in which payments of the member continue during the life of the contract.

As a rule very few restrictions are imposed.

Assessment or Non-Legal Reserve Method.—Under this method

provision is made to effect the insurance by currently collecting from the members a specified or determinable amount to be paid periodically. Originally this form of contract usually specified that, in the event of the death of the insured, the beneficiary should receive the proceeds of an assessment not exceeding a maximum sum specified. Later the form was modified so that the sum payable at death should be fixed and certain, while the amounts to be collected from the members become variable and uncertain, depending upon the mortality experienced. The variety is limited to the type of policies not requiring large accumulations for their fulfilment, and under which the payments of the insured are coterminous with the life of the policy. The restrictions and conditions, with the exception of the non-forfeitable and accumulation features, are in effect the same as in the policies of the legal reserve class.

III.

Conditions, Privileges and Restrictions.

Primary or Fundamental Conditions.—The truth of the statements contained in the application must be a condition precedent to the issuance of the policy. The payment of the premiums when due is fundamental to the continuance of the insurance. Provision is generally made for the revival of the policy in case of default in the payment of the premium if the insured be in good health. The requirement of legal and proper proof that the contingency insured against has happened is also fundamental. The company that will pay a policy without due and proper proof of death and claim is recreant to its trust.

Conditions Imposed by Sound Public Policy.—Sound public policy limits the insurable ages to the productive period of life, and requires policies to be non-forfeitable for any payments in excess of the current cost of insurance, allowing the companies a small margin for contingencies. It demands a clear and distinct statement of the respective rights of the parties to the contract with reference to the division and disposition of surplus. It requires policies to become incontestable within a reasonable time from date of issuance, except for failure to pay premiums when due, and imposes restrictions in the interests of the general public, such as

will discourage and prevent fraud and crime. Suicide, which will be discussed under policy restrictions, is an important feature of life insurance as related to public policy.

Conditions Imposed by Equitable Considerations.—These require the policies which have been issued to be kept, as nearly as practicable, in the same classification of hazards. If the insured voluntarily assumes a hazard known to be great, and not originally contemplated in his contract, the burden of it must either be borne by himself or by other policyholders. Equitable considerations require that every insured should bear his just proportion of such burdens. Hence in the case of military and naval service during time of war the extra premium involved by the war hazard should either be paid by the government served, or by the insured, or the policy should be proportionately scaled. Equitable considerations also demand that an extra premium should be imposed on persons who reside or travel in certain portions of the tropics where the death rate is fully twice as great as that upon which the premiums are based. A further and very important consideration, but much neglected, is that every policy should be made to pay its own way, including the expenses of writing and placing it. The policy should be so constructed that the premium loading the first policy year is sufficient to pay the expense, and the loading in the subsequent policy years should be correspondingly reduced. The surplus belonging to those already insured should be apportioned to them, and should not be diverted to the payment of expenses incident to obtaining new business.

The Significance of Privileges.—In a great many policy contracts conditions and restrictions are referred to as privileges. This use of the word privilege is rather difficult to reconcile with the general proposition of law that that which is not prohibited and comes within the purpose of the corporation is permitted. Therefore, unless a policy contract first limits and circumscribes, there is absolutely no significance to privileges. For example, to say, when there is no limitation as to travel, that the insured has the privilege of traveling or residing in any part of the known world signifies absolutely nothing, as that privilege is granted by its not being prohibited.

Privileges Implied But Not Expressed.—It may, therefore, be accepted as guiding principle that within the limits of the powers of

the maker of the contract, whatever is not restricted, forbidden or prohibited is a privilege implied although not expressed.

Classification of Restrictions.—I have classified the important conditions and restrictions of fifty-one companies. These companies are representative, and the result of the classification clearly indicates the principal policy conditions among the American life insurance companies :

1. Only eleven of the fifty-one companies formally announce accepting risks over sixty.

2. Thirty-seven accept women on the same conditions as men ; thirteen require extra premiums or restrict them to certain policies and one company refuses to insure them.

3. Thirty-eight companies voluntarily attach copy of application to the policy, thus giving to the insured a complete contract, and thirteen only do so when required or when the law requires it.

4. All companies have a provision in the policy that it shall not become effective and binding until delivered during the lifetime and good health of the insured and after the required premium is actually paid.

5. Seventeen have no restrictions with regard to occupation after the policy has once been issued ; eight have a restriction imposing a penalty if the insured engages in a more hazardous occupation than the one stated in the application ; twenty-six have restrictions limited by some to the first policy year and others to the first two policy years.

6. Thirty-five companies have restrictions in regard to military and naval service in time of war, requiring a permit for which an extra premium must be paid or providing for the scaling of policies ; six have such restriction for either one or two policy years and ten have no restriction.

7. Nineteen have a suicide clause for one year ; twenty-five for two years ; three for three years ; one without limitation, and three have no restriction.

8. In the matter of dueling and violating law thirty have no restrictions ; six have them for one year ; twelve for two years ; two for three years and one constant.

9. Forty-two have no provision against intemperance ; two have it for one year ; four for two years ; one for three years ; two for five years, and one constant.

10. Twenty-four companies have no restriction as to residence and travel; nine have it for one year; fourteen for two years, and four constant.

11. Two companies have no incontestable clause; two stipulate incontestability from date of issue; seventeen after one year; twenty-seven after two years; two after three years, and one after five years.

12. The policies of nine companies provide for no days of grace for payment of premium; those of forty-one companies provide thirty days, and one company six days.

13. Fourteen companies make no provision in policies for reinstatement or revival in the event of lapse, but reinstate merely as a matter of grace; sixteen companies make it a matter of contract without limiting the time; ten limit within a year; three two years; two three years; six five years.

14. All companies have some non-forfeiture provision after two or three years by way of loan, or paid-up or extended insurance; four provide cash surrender values after two years; twenty-nine three years; six five years; eight at periods specified in the contract; four no cash surrender values.

15. Six companies pay dividends annually; six annually after the second year; four annually after the third year; four annually after specified periods; nine annually after five years; twenty-two at stated periods or dividends deferred.

16. Forty-four companies provide for the payment of claims immediately after the receipt and approval of proofs of death, and seven specify payment within thirty or sixty days after proof.

Consideration of Each Class.—I will consider the classes, as given in the above classification, in numerical order:

1. Insurance, as a matter of protection, should be limited to the productive period of life, or to between ages fifteen and seventy. If an aged man applies for insurance, and pays the premiums himself as a means of investment and a method of increasing his estate, then there is no special reason for limiting the age on the level premium, or reserve method, of life insurance. Unfortunately, however, a great many aged persons have allowed themselves to be used as subjects for speculation. The astonishing part is that a selfish, unnatural and depraved desire should sometimes develop on the part of sons, daughters and sons-in-law to insure their fathers and

mothers under the assessment or cheaper method in the hope of financial gain from a speedy death.

Between the years 1880 and 1884, in the State of Pennsylvania, upward of two hundred assessment associations were organized for the purpose of speculating in aged human lives. Through the efforts of the legitimate life insurance companies and associations, the pulpit, the press and the bench, public conscience was awakened, and a law was passed in 1883 which put the speculators in human life and the organizations through which they operated out of business within a year. This chapter in the history of life insurance has resulted in the refusal by most companies to insure persons over the age of sixty unless the policy be of the investment type, and the further refusal to issue a policy if any person other than the insured seeks to effect the insurance or pay the premiums.

A man under proper policy conditions cannot, and would not if he could, speculate on his own life, and, therefore, when he himself furnishes the money to pay the premiums the transaction is legitimate at any age and free from the suspicion of speculation.

2. Repeated mortality investigations have established beyond any question of doubt that, when the speculative and moral hazards are eliminated, women are as good risks as men, if not better.

While there are still companies which charge women an extra premium of about \$5 per \$1,000 insurance yearly, most of the companies overcome the hazards by limiting the beneficiaries to minor children or dependents. Such companies have had a satisfactory experience in insuring women.

3. Twenty-four years ago the Commonwealth of Pennsylvania enacted a law requiring a copy of the application, or any instrument referred to in the policy as a part of the contract, to be attached. Other states have done the same. This is a wise and proper provision and is being carried out voluntarily by many companies in states where it is not required. This law and practice are the outcome of litigation. In cases of contest claimants frequently have not learned until coming into court that a breach of warranty actually existed. It is true, however, that no company would have refused claimants a copy of the application prior to litigation; and it is also true that the knowledge of the contract given by the attached copy of the application does not deter ambitious attorneys from attempt-

ing to enforce payment of claim even in case of material breach of warranty.

4. The provision in all policies, that they shall not become binding until delivery during the lifetime and good health and upon actual payment of premium, has become, under the methods in vogue, an absolute necessity. Courts have even held that in the event of a change in the physical condition of the applicant between the date of application and the delivery of the contract the warranty is continuous, and that it is the duty of the applicant to give notice to the company of the changed conditions before accepting the contract.

Where no consideration has passed, where the agent has not given a binding receipt to put the policy in force as soon as the risk is accepted by the company, such decisions as referred to seem just and right. The applicant for insurance, until he has actually made payment of the premium, is in a position to temporize and procrastinate. He often does so, and as a matter of justice his delay should be at his own risk and not at that of policyholders.

5. Restrictions with reference to occupations have been materially modified or entirely dispensed with during the last two decades. All companies at the inception of the contract take into account the hazards of occupations and impose conditions or rates to cover them, but it is so rare for men to change from less to more hazardous occupations that the majority of the companies, especially after the first policy year, have removed all restrictions, and this is particularly true under deferred dividend policies.

6. It has often been said, "In time of peace prepare for war." The long continued peace seems to have impressed a number of companies with the idea that there is no need of being prepared for war. Such companies have removed all restrictions with reference to military and naval service. In the statistics of war hazards there is no justification for doing this. In the late Civil War, as well as in European wars a generation or more ago, the proportion of the insured to the general population was so small as to produce no serious result to the companies, even if they had no policy restrictions. This condition has been changed; about one-half of the male population is now carrying insurance of some kind. In case of a general or extensive war the companies without restrictions might be wiped out of existence by a few battles. Hence, the removal of

all restrictions is simply liberality gone mad. The people who insist on having a "wide open" policy should realize that in several respects there is great peril and danger to them in such a policy.

It was my privilege, in the capacity of consulting actuary for the Army Officers' Association, to review the records of the United States War Department, from the institution of the department to the year 1893. From these records tables were constructed showing the war hazards as well as the mortality in military life. As a result I reached the conclusion that a company which entirely eliminates restrictions in time of war is recreant to its trust.

The clause in the policies with reference to military and naval service in time of war has, as a rule, been constructed on such equitable and reasonable lines as to render it unobjectionable. A clause which seems to me to be the most desirable is that which provides for the payment of an extra premium and a permit, and in the absence of the same provides for the scaling of the policy in the proportion of the war mortality to the tables upon which the premiums are based.

It is quite possible that with the increase of the insured population, in lieu of subsequently pensioning the widows of deceased soldiers, on declaring war the government might make provision for the payment of the extra war hazard premiums of the insured who enlist. The details of such a scheme could be worked out satisfactorily.

7. It has been assumed that a sane person will not commit suicide, and that therefore it should not be made a defense to a claim under the terms of the policy. This assumption has again and again been demonstrated to be a fallacy. While a certain proportion of suicides are no doubt irresponsible, the great majority are rational and thoroughly conscious of what they are doing. The proof of this lies in the statistical fact that companies and societies which have no suicide clause in the first few policy years have had from three to fivefold greater percentage of deaths by suicide than they have had in subsequent years. It is true that the deaths have not always been designated as suicidal, but the remarkable fact remains that the so-called accidental deaths have been much greater in the first than in subsequent policy years. If this is not due to a conscious selection against the companies, then how else can it be accounted for? Again, some of the fraternal societies which have had no

suicide provision, by adopting such a clause materially reduced the per cent. of suicides.

The State of Missouri some years ago enacted a law prohibiting companies from making suicide a defense. The moral effect of this law was so bad that the legislature, on its own motion and without any effort on the part of insurance companies, changed the law so that suicide within two years of the date of policy contract may be a defense.

It is exceedingly difficult, in cases where suicide is suspected, to get the true cause of death properly stated in the proofs of loss and claim. Suicide at once becomes a sort of stigma upon the immediate family, and because of this and because a frank and honest admission might defeat the recovery of insurance, every means is resorted to to conceal the true cause of death.

In the interest of good morals and the elevation of the human race every policy of life insurance for at least the first two years should impose a penalty for death by suicide.

8. The restrictions with reference to dueling and violating law, or death by the hand of justice, have either been entirely removed or so modified as practically to amount to nothing. Happily, dueling is now regarded as an act of cowardice instead of bravery, and it is so seldom resorted to for the settlement of disputes or the defense of honor as to make its elimination from the life insurance contract entirely practical. There is, however, a form of violation of law which has become quite serious in some states, and for which no remedy has been found. I refer to the feuds as a result of which a number of policyholders have been murdered in cold blood at the expense of other policyholders who had no part in the feuds. Indeed, there are sections of our country where the life companies for a time have found it necessary to decline to do business. Feuds create conditions that cannot be met by policy restrictions.

9. The great care exercised by the companies generally in the selection of risks, excluding all persons of questionable habits, renders a policy clause against intemperance practically of no value. This is why a large proportion of the companies have no provision against intemperance.

10. The improvement in sanitary conditions and in the means of travel has justified the companies in eliminating most of the restrictions upon residence. About one-half of the companies have

no restrictions whatever. A man can take out a policy in this country to-day, pay for it, and to-morrow travel to and reside in a country where the mortality is admittedly twofold. I fully agree, because statistics show, that a restriction in the temperate zone is unnecessary, but I can find no justification for allowing persons to take out policies in the temperate zone at regular rates, and then permitting them to live in the fever-stricken sections of the tropics without requiring an extra premium. No argument against this is necessary beyond the statistics of our American companies which do business in the tropics. While it is true that they collect a larger premium, it is also true that about 50 per cent. of such larger current premium is required to pay the current losses, while in the temperate zone about 25 per cent. of a smaller premium is sufficient. Hence, conservatively managed companies incorporate some policy restriction which will neutralize the effect of residence and travel either in portions of the tropics or in portions of the frigid zone.

II. The public sentiment already referred to as due to unfortunate insurance conditions following the Civil War is responsible for a division of opinion among the life companies with regard to the so-called incontestable clause. One class—and this class is decidedly in the minority—favors what is known as the “open door” policy, which in effect provides that after the policy has been issued the company is precluded from raising any question as to the validity of the contract. This class of companies must of necessity employ a retinue of inspectors and detectives to learn all about the character of the risk before a policy is issued. This involves a large expense which must be borne by the existing policyholders.

Another class of companies believes that every applicant should personally become responsible for the truth of his own statements for a limited time—usually two years—without entailing on the other policyholders the expense incident to the special and searching investigations necessary in case a policy is incontestable from date of issue.

There are not only common law questions, but questions of public policy involved. As a common law principle fraud vitiates contracts. As a matter of public policy, no man should be allowed either for himself or his dependents to profit by his own fraud. Hence, 96 per cent. of the companies do not issue policies incon-

testable from date of issuance. Instead their policies become incontestable usually two years afterward. This gives a company the opportunity, in the regular course of its business, of verifying the statements upon which the contract is based, and if it finds that untrue and fraudulent statements have been made, and the insured does not voluntarily surrender the policy when called upon to do so, equity proceedings are usually instituted to compel its surrender.

The courts of several states have held such policies, after the lapse of the contestable period, to be absolutely incontestable, because the company issuing such a policy has reserved to itself a period of time to investigate and discover any false or fraudulent statement that would vitiate the policy. If it fails to investigate and discover, the fault is its own and, therefore, it cannot avail itself of the common law principle which obtains in case the policy is made incontestable from date of issuance, viz., that fraud vitiates or renders null and void all contracts. It may therefore be contended, with considerable force, that the few companies which have no incontestable clauses are better protected against fraud than those which do have such clause. On the other hand, if the fraud is of such a character as not to be detected within two years it cannot be serious and by the express terms of the contract should not be allowed to affect it.

12 and 13. The feature of grace in the payment of premiums had its origin in the desire of the companies to do all they could within the limits of safety to avoid lapses. Its principal effect is to postpone the last day of payment, or the final due date. Therefore, if a policyholder, instead of using the days of grace as a margin to avoid lapse, should get into his mind that instead of the final day of payment being March 1st it is March 30th, and should procrastinate accordingly every year, he would lose all the benefits of the feature.

Reinstatement should not be simply a matter of grace, but a matter of right under the contract, upon compliance with reasonable requirements to prevent those who purposely lapse their policies from coming back into the company after they have become afflicted with disease.

14, 15 and 16. The non-forfeiture and dividend provisions, as also those covering payment of claims, are features upon which there is such a degree of unanimity and such uniformity of practice

that there is little to be said beyond what will be disclosed by the examination of the policies of any reserve company.

In a general way, however, I will say that cash surrender values are not only liable to defeat the very purpose of protection for which insurance stands, but to encourage selection against the company; and that the non-forfeitable values, through competition, have become liberal to a fault. A company that imposes penalty for discontinuance will best serve its persisting policyholders.

The dividend clauses, whether annual or deferred, should be explicit, direct, unequivocal and enforceable. A contract that does not clearly and distinctly draw the line between surplus and distributive surplus, and that without some governing, fundamental principle, leaves the rules and directors of the company in the future to determine what surplus is or is not distributive, is objectionable.

The ideal policy stipulates the governing principle which in the matter of distributing profits is binding both upon the insurer and the insured.